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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,446	03/26/2004	Dieter Brueckner	Q79459	8132
23373 7590 11/30/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER VERDI, KIMBLEANN C	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 11/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/809,446

**Applicant(s)**

BRUECKNER ET AL.

**Examiner**

KimbleAnn Verdi

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date September 13, 2007.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This office action is in response to the Amendment filed on September 13, 2007. Claims 1-8, 10-18 are pending in the current application. All previously outstanding objections and rejections to the Applicant's disclosure and claims not contained in this Action have been respectfully withdrawn by the Examiner hereto.

#### ***Response to Amendment***

1. Amendment to the specification overcomes the previous objections to the specification.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.
3. Applicant's arguments filed on September 13, 2007 have been fully considered but they are not persuasive. In response to the Non-Final Office Action dated September 15, 2007, applicant argues in regards to claims 4:

**(1) Furthermore, even if the Applicant assumes arguendo that the search does suggest the checking of an acknowledgement, the reference fails to disclose that such check occurs "if an input register "does not" include a pointer. The claimed method of claim 4 simply is not taught or suggested in Desnoyers (page 17, lines 5-8).**

In response to argument (1), examiner respectfully disagrees and notes that Desnoyers discloses after writing the pointer, reading (e.g. request) the input register by the first one of the applications (step 608, Fig. 10B);

by the first one of the applications, checking whether the input register includes the pointer (e.g. header page is present, step 609, Fig. 10B);

if the input register does not include the pointer (e.g. no pages left in buffer to transfer, step 610, Fig. 10B), checking whether the acknowledgement has been stored in the acknowledge field (e.g. block count zero, step 611, 612, Fig. 10B, col. 10, lines 27-29).

#### ***Information Disclosure Statement***

4. The foreign reference was not considered since applicant merely provided a key to the language of citations in a non-English document. No translation of the relevant section has been provided; therefore, the examiner has only considered that the reference may have some relevance.

#### ***Claim Objections***

5. Claims 4 and 15 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

6. For example, claim 4, line 5, the recitation of "if the input register does not include the pointer" is a broader limitation than in independent claim 1, lines 6-7, the recitation of "writing a pointer to the address space into an input register", since the pointer is written into the input register in independent claim 1.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 7 recites the broad recitation "writing a pointer to the address space into the input register", and the claim also recites "if the pointer is no longer located in the input register when the input register is read" which is the narrower statement of the range/limitation.

Claim 8 is rejected since it depends on claim 7.

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10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 5,363,484 to Desnoyers et al. (hereinafter Desnoyers).

12. As to claim 7, Desnoyers teaches a computer program product for an application of a subscriber of a data network, wherein the application accesses a data bus for a plurality of applications of the subscriber, wherein the subscriber has an input register and an output register assigned to the application, the computer program product comprising:

a computer readable medium (BSM's 30-33, Fig. 2); and

computer-readable instructions on the computer-readable medium (BIL 20-23, switch 25, lock/configuration mechanism 27, Fig. 2) enabling a processor to perform the following operations:

writing a command structure (e.g. message contains command) into an address space of a memory of the subscriber via the data bus (col. 4, lines 9-13);

writing a pointer to the address space (e.g. address of input buffer is stored in linked list 110, Fig. 5) into the input register of the command unit via the data bus (col. 6, lines 52-57); and

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reading (e.g. request) the input register (step 608, Fig. 10B) to check whether the command unit has acknowledged the command structure (e.g. block count zero, col. 10, lines 27-29); and

checking an acknowledge field in the command structure field (e.g. block count zero, step 611, 612, Fig. 10B, col. 10, lines 27-29) if the pointer is no longer located in the input register (e.g. no pages left in buffer to transfer, step 610, Fig. 10B) when the input register is read (e.g. header page is present, step 609, Fig. 10B).

13. As to claim 8, this claim is rejected for the same reason as claim 7, see the rejection to claim 7 above.

14. As to claim 10, Desnoyers teaches the a computer program product as claimed in claim 7, wherein a plurality of interlinked command structures is written into the memory of the subscriber (col. 4, lines 9-12, and col. 6, lines 55-60); and

wherein the pointer points to the address space of a first command structure of the plurality of interlinked command structures (linked list 110, Fig. 5, col. 6, lines 52-60).

15. As to claim 11, Desnoyers teaches a computer program product as claimed in claim 7, wherein the output register (e.g. output buffer) assigned to the application is read to check whether the command unit has processed the command structure (col. 6, lines 39-42).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-6, and 12—18 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent 5,363,484 to Desnoyers et al. (hereinafter Desnoyers) in view of United States Patent 5,764,894 to Boucher et al. (hereinafter Boucher).

18. As to claim 1, Desnoyers teaches the invention substantially as claimed including a method for accessing a command unit for a data network, comprising:

by a first one of the applications (source computer 12-15, Fig. 1, col. 4, line 6), writing at least one command structure (e.g. message contains command) into an address space of a memory of the subscriber via the data bus (col. 4, lines 9-13);

by the first one of the applications, writing a pointer to the address space (e.g. address of input buffer is stored in linked list 110, Fig. 5) into an input register of the command unit via the data bus (col. 6, lines 52-57);

by the command unit (e.g. command interpreter), accessing the address space (e.g. input buffer) via the data bus and processing the command structure (col. 6, lines 46-49); and



after the subscriber (e.g. combiner memory system 11, Fig. 1 has processed the command structure, writing the pointer into an output register (e.g. output buffer) that is assigned to the first one of the applications (col. 6, lines 39-42).

Desnoyers does not explicitly disclose operating a plurality of applications in a subscriber of the data network such that the applications access a data bus of the subscriber.

However Boucher teaches operating a plurality of applications in a subscriber of the data network such that the applications access a data bus of the subscriber (col. 3, lines 38-49).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the computer of Desnoyers with the teachings of computer from Boucher because this feature would have provided a system for communicating with a network, which includes a computer connected by means of a bus (col. 3, lines 39-40 of Boucher).

19. As to claim 2, Desnoyers teaches the method as claimed in claim 1, further comprising controlling access to the data bus by an arbiter unit (col. 16, lines 41-42), such that access is allowed for a predefined number of bus cycles (col. 17, lines 6-8) and such that the predefined number of bus cycles is sufficient for writing the pointer into the input register (e.g. data buffer, col. 19, line 37).

20. As to claim 3, Desnoyers teaches the method as claimed in claim 1, wherein the command structure includes an acknowledge field (e.g. block count), and wherein the method further comprises:

after writing the pointer by the subscriber, blocking the input register (e.g. buffer full, col. 6, lines 30-34 and 42-46);

by the subscriber, writing an acknowledgment into the acknowledge field (e.g. "busy acknowledge", col. 8, lines 22-28);

after the acknowledgment, enabling the input register by the subscriber (e.g. "Read Input Buffer Data", "Select Input Buffer", col. 8, lines 35-37).

21. As to claim 4, Desnoyers teaches the method as claimed in claim 3, further comprising:

after writing the pointer, reading (e.g. request) the input register by the first one of the applications (step 608, Fig. 10B);

by the first one of the applications, checking whether the input register includes the pointer (e.g. header page is present, step 609, Fig. 10B);

if the input register does not include the pointer (e.g. no pages left in buffer to transfer, step 610, Fig. 10B), checking whether the acknowledgement has been stored in the acknowledge field (e.g. block count zero, step 611, 612, Fig. 10B, col. 10, lines 27-29).

22. As to claim 5, Desnoyers teaches the method as claimed in claim 1, wherein the command structure includes executable commands (e.g. command CND, Fig. 3, header page) and user data (e.g. data page, starts at DW4, Fig. 3, col. 4, lines 12-35).

23. As to claim 6, Desnoyers teaches the method as claimed in claim 1, wherein the first one of the applications writes a plurality of interlinked command structures into the memory (col. 4, lines 9-12, and col. 6, lines 55-60); and

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wherein the pointer points to the address space of a first one of the command structures of the plurality of interlinked command structures (linked list 110, Fig. 5, col. 6, lines 52-60).

24. As to claims 12-17, these claims are rejected for the same reasons as claims 1-6 respectively, see the rejections to claims 1-6 above.

25. As to claim 18, this claim is rejected for the same reason as claim 1, see the rejection to claim 1 above.

### ***Conclusion***

26. The prior art made of record on the accompanying PTO-892 and not relied upon, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KimbleAnn Verdi whose telephone number is (571) 270-1654. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm EST..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 19, 2007

KV

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER